

Kevin Shea
141 Pheasant Lane
Branford, Ct 06405
March 22, 2012
Written Testimony for H.B. No. 5536 Property Manager Licensing

Dear Committee Members,

My name is Kevin Shea I am 62 years old and I have resided at 141 Pheasant Lane Branford, Ct 06405 a Condominium at The Meadows of Branford Condominium Association which consists of 136 units. I am not a Board Member. I thank you for the opportunity to address you today on the topic Property Manager Licensing and would like to take this opportunity to share with you recent experiences I and my Association had with Margolis Management from Hamden, CT. At this point I would ask you to please review and reference the below copied article and docket no. of a case that I was personally involved in with this Manager which was settled in Nov 2011 with the DCP:

Article published in CTWatchdog.com, January 2, 2012

Margolis Condo Management Fined For Padding Condo Association Bills

On November 9, 2011, following a two year investigation by the State of CT Department of Consumer Protection (Docket No. 11-818, Case No. 2009-5477), Commissioner William M. Rubenstein, imposed a penalty of \$8,000 on Stephen Margolis, A/K/A Margolis Management & Realty of Hamden, CT, for failing to properly notify and disclose to The Meadow's Association the inflated prices he, Mr. Margolis, was charging for "additional services other than Association Services for compensation, to an Association, The Meadows of Branford, to which he was also providing Community Association Manager Services."

In 2009, Kevin Shea, an owner at The Meadows of Branford, became aware of inflated billing for contractors' services to the condominium. "It was obvious that something was wrong, [anyone] could see that money was going out the back door." Additional/multiple assessments had been levied for four years running for major maintenance items, some of which were never completed. **Prior to 2009, The Meadows Board and their property manager were confronted by Association members [the owners] who petitioned for and scheduled a special meeting. Members requested that the assessment funds be accounted for and segregated from the regular operating budget. The Board, property manager and their attorneys refused.** Following an inspection of the Association records, Mr. Shea filed a complaint with the CT Department of Consumer Protection, which investigated the issue over a two year period. In November 2011, a settlement was made in Shea's favor, with a penalty of \$8,000 imposed on Stephen Margolis.

Margolis' Assurance of Voluntary Compliance, in which he agreed to the penalty without admitting any violation, was accepted by the Commissioner with Margolis further agreeing to refrain from any business practices that can be construed as a violation of the CT Fair Business Practices Act. The Board did not pursue Margolis.

The Connecticut Condo Owners Coalition (CCOC), a grassroots organization, became aware of this case, which again confirms the need for a mediator to resolve issues between condo owners and their boards or management companies. CCOC's membership is comprised of condo owners.

OUR BOARD REFUSED TO CONFRONT OR TAKE ACTION ON THIS MANAGER

It is important to understand the intricate and multiple positions that a property manager holds and rolls that the manager plays through out an entire Association.

Property managers handle virtually everything. Some of the areas that he controls are collecting all of our Association dues (approx 500k per year), planning the budget, coordinating all of the ongoing maintenance, capital repairs, bidding, contracting with contractors, etc. The property manager is also the agent of record and mailing center for the Association and handles all electronic and written communications from the Board or himself to the owners. The property manager also conducts monthly Board meetings and Annual Meeting and manages Annual meetings and elections. He also handles absentee voting proxies. Come election time he is exclusively privy to who has mailed in a proxy and who hasn't vs. who is actually attending the election and will be voting in person. The Manager by design literally controls every aspect of the internal workings of the Association including elections.

Many times owners who oppose sitting Boards who have deep relationships with a sitting property manager will try to run for a board position in order to introduce new more transparent policy. However it is the board and the property manager, who will conduct the election, handle and count the votes and they **always win while refusing to openly display the actual ballots, proxies and election count**, even when the vast majority of voting owners have cast opposing votes that have conflicting interests with the property manager and the sitting Boards. The only information offered is that the opposing candidate lost by a couple of votes. A property manager handles all of the association monies and makes or heavily influences every decision, election, budget, disbursement of funds and every other aspect of the Association *virtually unregulated*.

Property managers and outside third parties IE, Attorneys who have financial interests in the election's outcome should not be allowed to participate or influence Association elections, and this practice is commonplace.

Boards aren't required to provide owners with accurate financial reports that contain who the manager or board is contracting with for goods, services, repairs, construction or who the actual contractor is and the prices owners are paying, which in many cases owners are unknowingly and unnecessarily overcharged. In my Association we were notified that if we even speak to a contractor or repairman we would be fined by the board.

If an owner wants to see the Association's books he or she has to make an appointment with the property manager to look the books. I can tell you from personal experience getting an appointment to view or copy your records of any kind **IS A NIGHTMARE**. Once I made the request to see the records Board members immediately began telling residents that I was causing trouble, I was blacklisted. Great lengths were taken to discourage or prevent me from making the inspection and after three weeks of abuse I was granted an appointment. The records I was provided with were incomplete and I had to return for two additional appointments, the whole inspection process took six weeks. I then pieced together enough information to file a complaint with the DCP which is covered in the above listed article.

THE PENALTIES FOR MANAGEMENT OVERBILLING / INVOICING OR CONTRACTOR/CONSTRUCTION SCHEMES ARE INADEQUATE. REGARDLESS OF THE AMOUNTS TAKEN, THESE CRIMES WHICH ARE PERPETRATED ON ASSOCIATION OWNERS WHO HAVE NO KNOWLEDGE OF THEIR EXISTANCE AND NO WAY TO DEFEND THEMSELVES ARE TREATED AS MISDEMEANERS. OWNERS HAVE TO DEPEND ON VOLUNTEER MANAGER FRIENDLY BOARD MEMBERS WHO IN MANY CASES HAS BEEN LED ASTRAY FOR PROTECTION.

Accordingly any individual who is in a position with this large and unmonitored fiduciary responsibility must be properly screened during the licensing process and then be held responsible by regulation. I am strongly requesting and advocating for continuing education, testing, and criminal background checks to be done each time a manager applies for or renews a license. This is not as difficult as it appears; the ST Banking Dept requires it for all of their independent mortgage originators, Bankers and Brokers. It is all done at the applicant's expense and efforts and submitted with his license application. The Banking Department should be contacted for counseling in this area. I am more than confident that this process alone will eliminate undesirable applicants and active participants from the industry and will be very helpful in lowering the volume of complaints going to the DCP. As you can see from the article and docket No.11-818 I have posted with this testimony no property manager should be exempt from background checks, this manager has been in the business over 10 years.

I am also requesting and recommending a public website or area at the DCP for property managers to be publicly rated by their customers for both negative and positive performance. The Better Business Bureau does not rate or keep track of these companies and if a unit owner or Association has knowledge of abuse or infractions they can responsibly post, while notifying officials.

I am also forwarding the below listed observation of Act 828 based on my limited observation and knowledge of these laws, sighting inequalities for Private Association Home Owners which recently went into effect for CT Common Ownership Communities:

Public Citizens vs. Private Association Citizen's Rights and Protections

As a result of the new 828 act there are unequal and separate rights, protections and access to the law and enforcement as it pertains to ordinary CT citizens (OC) as opposed to CT citizens who live in private associations (PC) creating many obvious inequities for the unprotected private citizen.

Both classes of these home owner citizens pay equal State, Local and property taxes however receive separate and unequal services, legal protections and access to any law enforcement in the event of wrong doing, conflict or preditorial behavior within a private community.

Within a private association as a result of Act 828 there are also two distinctly unequal classes of citizens with the above mentioned inequities. That would be Board Members who have access to association funds and legal recourses vs. unit owners who have to use their own resources in time of conflict or obvious mismanagement.

There are aspects and features within Act828 that allow for & promote;

1) Unfair and Unethical Deceptive Business Practices, i.e.;

Prior to a contractor doing work on a public citizen's residence the contractor must provide the owner with the scope of work to be done, price of materials, labor, date of completion and include a 3 business day right of rescission./ Private owner's have no protections or recourse and have to depend on non experienced Boards who deal with seasoned professional property managers and contractors who are fully aware of the lack of enforcement in these areas and take full advantage this loophole and employ an array of deceptive business practices when charging for and delivering goods and services to private associations.

2) Absolute and Unfair Control of Elections, i.e.;

If the sitting board feels as though it will be challenged they will attack their challenger's legitimacy, cancel/postpone meetings ...change the meeting venues etc, etc and will employ Property Managers and other professionals to deny access to their opponents to take part in the counting of votes. Official election results are rarely provided to voters or contestants.

3) Unchallengeable Association Board Powers/Access to Legal Resources:

Boards have access to and will use Association funds to challenge and litigate against unit owners for many unfounded issues or disagreements. This is done regularly and in the absence of common sense, unit owners are forced to use their personal funds to defend any actions. Property managers, Association and Condo industry Attorneys are proponents and the main beneficiaries of this activity.

An unbiased independent OMBUDSMAN is needed badly to settle owner-board disputes and keep property managers in compliance. The Ombudsman could be self funded by condo owners at a pittance of what is lost annually through a result of unnecessary litigation expenses incurred by owners and deceptive business practices.

4) No Understandable or Verifiable Association Financial

Under the constant threat of foreclosure private homeowners are forced to pay their monthly association fees regardless of the services or lack thereof that they receive or the building and property conditions that they live in and in many cases have little or no say in how their property is maintained and who selectively receives services. As a direct result of 828 Boards are no longer required to provide members with annual or any regularly scheduled reports making it impossible for owners to track anything. Owners have no knowledge or way to defend themselves against overbilling, fraud or any number of other consumer or criminal schemes that are regularly employed against associations that are run by held harmless volunteers.

828 has put in place new restrictions of what financial and association business records and documents owners are allowed to see or review leaving owners defenseless against fraud and schemes.

5) No Immediate Available Law Enforcement or Relief When Violations are Discovered and Weak Penalties for Violators.

There are many civil and criminal violations of private unit owner's rights in the State of CT. These are violations that if encountered by a public citizen that public citizen has law enforcement and other venues to seek out and rely on for relief and resolution.

These violations happen within both poorly and well managed associations alike. That is because the existing law allows for these conditions of inequality to exist while providing cover for less than legal and ethical industry vendors and providers of services to operate and prosper unchecked.

When a violation is discovered the local police and the Atty general's office are helpless and turn away thousands of complaints every year.

An understaffed overworked DCP is responsible for licensing and enforcement of very weak rules for Property Managers who handle all of an Associations records, dues, and election processes. These individuals have huge fiduciary duties and access to large amounts of funds; they are in effect the bankers for associations and yet aren't even screened with a criminal background check during the licensing process.

Run away vendor influenced Boards with their own self non-owner interests are now the norm rather than the exception.

I again would like to thank you for the opportunity to be heard on this important matter. There are over 250,000 Condominium Owners in CT and we have no voice, the fox has been in the hen house long enough.

There are Condo Industry Trade Groups consisting of industry vendors and Attorneys who have lobbied for the current business-friendly rules and laws who call themselves inappropriately our voice, which is incorrect.

Thank you for taking the time to listen, I hope you will take corrective and decisive action to amend the current laws that will provide improved transparency and protections for Private Association Home Owners in CT.

Respectfully submitted,

Kevin Shea
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